

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X	:	
DAVID S. OWENS,	:	
	:	
Plaintiff,	:	<u>ORDER</u>
	:	
-v-	:	19-CV-10213 (GBD) (JLC)
	:	
CITY Of NEW YORK, <i>et al.</i>	:	
	:	
Defendants.	:	
-----X	:	

JAMES L. COTT, United States Magistrate Judge.

Pro se Plaintiff David S. Owens has moved for appointment of counsel by motion filed July 28, 2020 (Dkt. No. 37). The Court does not have a budget to pay appointed counsel in civil cases and has no power to enlist a lawyer to serve without pay. The Court must be mindful that volunteer attorney time is a precious commodity, and “courts should not grant such applications [for appointment of counsel] indiscriminately.” *Cooper v. A. Sargenti Co.*, 877 F.2d 170, 172 (2d Cir. 1989).

For the Court to order the appointment of counsel, a petitioner must make “a threshold showing of some likelihood of merit.” *Johnston v. Maha*, 606 F.3d 39, 41 (2d Cir. 2010) (citing *Cooper v. A. Sargenti Co.*, 877 F.2d 170, 174 (2d Cir. 1989)); *Carmona v. U.S. Bureau of Prisons*, 243 F.3d 629, 632 (2d Cir. 2001). Only then can the Court consider the other factors appropriate to the determination of whether counsel should be appointed: “the [petitioner’s] ability to investigate the crucial facts, . . . , the [petitioner’s] ability to present the case, the complexity of the legal issues and any special reason in that case why appointment of counsel would be

more likely to lead to a just determination.” *Johnston*, 606 F.3d at 42 (citing *Hodge v. Police Officers*, 802 F.2d 58, 60-61 (2d Cir. 1986)).

At this point in the proceedings, the Court denies Plaintiff’s application for appointment of counsel without prejudice to renewal because the Court cannot conclude based on the current record that Plaintiff’s claims are substantial or that he is likely to succeed on the merits. Accordingly, Plaintiff should work with the Pro Se Office of the Court for any additional help that he needs, and should also continue to seek to obtain private counsel. The Pro Se Office may be contacted at: 212-805-0175.

Additionally, the Court wishes to inform Plaintiff of a useful independent resource that provides legal advice and assistance to parties in civil cases who do not have lawyers. The Clinic is run by a private organization called the New York Legal Assistance Group; it is not part of, or run by, the Court (and, among other things, therefore cannot accept filings on behalf of the Court, which must still be made by any unrepresented party through the Pro Se Intake Unit).

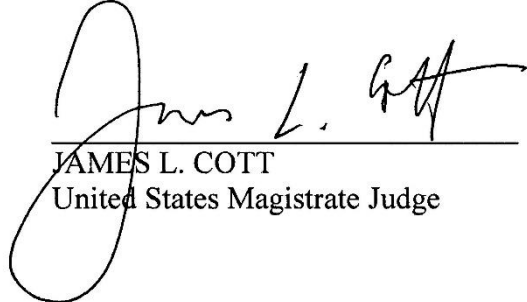
Due to the COVID-19 pandemic, the Clinic has temporarily suspended all in-person meetings, but will continue to provide limited scope assistance by appointment over the phone. Plaintiff is encouraged to call 212-659-6190 to schedule an appointment.

The Court further clarifies that the Clerk of Court will serve defendants; it is not Plaintiff’s responsibility to do so.

The Clerk is respectfully directed to close docket entry number 37 and mark it as denied without prejudice.

SO ORDERED.

Dated: July 30, 2020
New York, New York



JAMES L. COTT
United States Magistrate Judge

**A copy of this Order has been mailed
to the following:**

David S. Owens
18-A-2545/5325148y
Auburn Correctional Facility
P.O. Box 618
Auburn, NY 13024